

1 DAVID R. ZARO (BAR NO. 124334)  
2 TED FATES (BAR NO. 227809)  
3 TIM C. HSU (BAR NO. 279208)  
4 ALLEN MATKINS LECK GAMBLE  
5 MALLORY & NATSIS LLP  
6 515 South Figueroa Street, Ninth Floor  
7 Los Angeles, California 90071-3309  
8 Phone: (213) 622-5555  
9 Fax: (213) 620-8816  
10 E-Mail: dzaro@allenmatkins.com  
11 tfates@allenmatkins.com  
12 thsu@allenmatkins.com

13 Attorneys for Plaintiff  
14 WILLIAM J. HOFFMAN, Receiver

15 **UNITED STATES DISTRICT COURT**  
16 **CENTRAL DISTRICT OF CALIFORNIA**  
17 **WESTERN DIVISION**

18 WILLIAM J. HOFFMAN, Court-  
19 appointed permanent receiver for  
20 Nationwide Automated Systems, Inc.,  
21 Oasis Studio Rentals, LLC, Oasis Studio  
22 Rentals #2, LLC, Oasis Studio  
23 Rentals #3, LLC, and their subsidiaries  
24 and affiliates,

25 Plaintiff,

26 v.

27 JEFFREY FIRESTONE, an individual;  
28 and WANTANA FIRESTONE, an  
individual,

29 Defendants.

30 Case No. 2:15-cv-8486-SJO-FFM

31 **NOTICE OF MOTION AND MOTION**  
32 **FOR ENTRY OF DEFAULT**  
33 **JUDGMENT BY COURT AS AGAINST**  
34 **DEFENDANTS JEFFREY FIRESTONE**  
35 **AND WANTANA FIRESTONE;**  
36 **MEMORANDUM OF POINTS AND**  
37 **AUTHORITIES**

38 Date: January 11, 2016

39 Time: 10:00 a.m.

40 Ctrm: 1 - 2nd Floor

41 Judge: Hon. S. James Otero

42 **TO ALL INTERESTED PARTIES:**

43 **PLEASE TAKE NOTICE** that on January 11, 2016, at 10:00 a.m., or as  
44 soon thereafter as this matter may be heard in Courtroom 1 of the above-entitled  
45 Court, located at 312 North Spring Street, Los Angeles, California 90012, Plaintiff  
46 William J. Hoffman of Trigild, Inc., the Court-appointed permanent receiver for  
47 Nationwide Automated Systems, Inc., Oasis Studio Rentals, LLC, Oasis Studio  
48 Rentals #2, LLC, Oasis Studio Rentals #3, LLC, and their subsidiaries and affiliates,

1 appointed by this Court in the Securities and Exchange Commission enforcement  
2 action styled as *Securities and Exchange Commission v. Nationwide Automated*  
3 *Systems, Inc., et al.*, United States District Court, Central District of California, Case  
4 No. 14-CV-07249-SJO (FFMx) ("SEC Action"), will and hereby does present his  
5 Motion to the Court for entry of default judgment as against Defendants Jeffrey  
6 Firestone and Wantana Firestone ("Defaulting Defendants"). The clerk previously  
7 entered the default of Defaulting Defendants on December 2, 2015. (Docket No.  
8 15.)

9 This Motion is based upon this Notice, the concurrently submitted  
10 declarations of William J. Hoffman ("Hoffman Decl.") and Tim C. Hsu ("Hsu  
11 Decl."), the supporting exhibits, pleadings, and any oral or documentary evidence  
12 that may be presented at the time of this Motion's hearing.

13  
14 Dated: December 11, 2015

15 ALLEN MATKINS LECK GAMBLE  
16 MALLORY & NATSIS LLP  
DAVID R. ZARO  
TED FATES  
TIM C. HSU

17 By: /s/ Tim C. Hsu

18 TIM C. HSU  
19 Attorneys for Receiver  
WILLIAM J. HOFFMAN

20  
21  
22  
23  
24  
25  
26  
27  
28

## **MEMORANDUM OF POINTS AND AUTHORITIES**

## 2 | I. INTRODUCTION

3 This action was commenced on October 30, 2015 by Plaintiff William J.  
4 Hoffman of Trigild, Inc. ("Receiver"), the Court-appointed permanent receiver for  
5 Nationwide Automated Systems, Inc. ("NASI"), Oasis Studio Rentals, LLC, Oasis  
6 Studio Rentals #2, LLC, Oasis Studio Rentals #3, LLC, and their subsidiaries and  
7 affiliates (collectively with NASI, "Receivership Entities"). Despite proper service  
8 of the Summons and Complaint, Defendants Jeffrey Firestone and Wantana  
9 Firestone ("Defaulting Defendants") failed to file any response or make any  
10 appearance in this action. As a consequence, the Receiver previously requested  
11 defaults to be entered as against Defaulting Defendants, which defaults were entered  
12 by the Clerk of this Court on December 2, 2015. Given the entry of default, and  
13 Defaulting Defendants' failure to respond or otherwise appear in this action, the  
14 Receiver hereby respectfully requests that default judgment be entered as against  
15 Defaulting Defendants in the amount as specified herein.

16 **II. SUFFICIENT PROOF EXISTS SUPPORTING THE ENTRY OF**  
17 **DEFAULT JUDGMENT**

18 As reflected in the declarations, exhibits, pleadings and other evidence  
19 submitted concurrently with this Motion, and on file in this Action and in the SEC  
20 Action, sufficient proof exists of the following matters:

1. Defaulting Defendants were personally served with the Summons and  
Complaint on November 3, 2015, but have failed to appear in this action. (Docket  
Nos. 11, 12, 14.)

24       2. Following their failure to appear, the Receiver's counsel, on  
25 November 25, 2015, sent Defaulting Defendants a letter by way of FedEx and email  
26 to inform them the Receiver intended to seek a default judgment against them if they  
27 did not respond to the Complaint. (See Hsu Decl. ¶ 3.) Notwithstanding this notice,

1 and as of the date of this Motion, Defaulting Defendants have failed to file any  
 2 responsive pleading. (*Id.*; *see also, generally*, Docket.)

3       3. Defaulting Defendants are not minors or incompetent persons or in  
 4 military service or otherwise exempted under the Soldiers' and Sailors' Civil Relief  
 5 Act of 1940. (*See* Hoffman Decl. ¶ 3.)

6       4. Defaulting Defendants have not appeared in this action. (*See*,  
 7 *generally*, Docket.)

8       5. Notice of this Motion was served on Defaulting Defendants on  
 9 December 11, 2015 by way of overnight mail, in accordance with Local Rule 55-1.  
 10 (*See* Proof of Service submitted concurrently herewith.)

11       6. The Receiver is entitled to judgment against Defaulting Defendants on  
 12 account of the claims pleaded in the Complaint, to wit: This action involves  
 13 fraudulent transfers of purported profits totaling \$243,663.50 ("Profit Amount") of  
 14 Receivership Entities' funds to Defaulting Defendants. (*See* Complaint ¶¶ 7-8.) In  
 15 particular, NASI raised money from investors by selling them Automated Teller  
 16 Machines ("ATMs"), leasing the ATMs back from investors, managing the ATMs  
 17 for the investors, and paying the investors annual "rents" that were guaranteed to  
 18 total at least 20% of the ATM purchase price. (*Id.*) In actuality, the Receivership  
 19 Entities did not sell any ATMs, but instead fabricated and sold fictitious ATMs with  
 20 fabricated serial numbers and locations. (*Id.*) The "rents" paid to investors,  
 21 including to Defaulting Defendants, were paid from the amounts raised from other  
 22 investors. (*Id.*) Thus, NASI operated a classic Ponzi scheme, and the funds paid to  
 23 investors such as Defaulting Defendants, were paid with proceeds raised from other  
 24 investors in the Ponzi scheme. (*Id.*) These allegations are further supported and  
 25 confirmed by the results of the Receiver's investigation, admitted by the principal  
 26 defendants through their Answers filed in the SEC Action, and admitted by NASI's  
 27 principal, Joel Gillis, through his Statement of Facts filed in connection with his  
 28

1 guilty plea in the related criminal action. (See Hoffman Decl. ¶ 5; SEC Action  
 2 Docket Nos. 49-50; Complaint ¶ 12, Ex. A.)

3       7. The Profit Amount paid to Defaulting Defendants is subject to  
 4 disgorgement as an actual and constructively fraudulent transfer because the funds  
 5 are the ill-gotten gains of the underlying Ponzi-scheme operated through the  
 6 Receivership Entities, and because Defaulting Defendants did not receive the funds  
 7 in good faith in that they had no business dealings with NASI apart from  
 8 transactions relating to the purchase and leasing of fictitious ATMs and provided no  
 9 services or other value to the Receivership Entities other than amounts paid for the  
 10 fictitious ATMs. (Hoffman Decl., ¶¶ 5-7.)

11       8. Defaulting Defendants are jointly and severally liable for disgorgement  
 12 of the Profit Amount as joint tortfeasors. As alleged in the Complaint, Defaulting  
 13 Defendants together received the Profit Amount paid to them as purported profits in  
 14 their investment in the fictitious ATMs. (See Complaint ¶¶ 14-15; Hoffman Decl.  
 15 ¶¶ 5-7.) Other than the amounts Defaulting Defendants paid for these ATMs,  
 16 Defaulting Defendants had no business dealings with NASI and provided no  
 17 services or other value to the Receivership Entities. (*Id.*) Thus, Defaulting  
 18 Defendants are jointly and severally liable for disgorgement of the Profit Amount  
 19 totaling \$243,663.50.

20       9. Accordingly, the amount of judgment sought against Defaulting  
 21 Defendants, jointly and severally, is the Profit Amount totaling \$243,663.50, as set  
 22 forth in the Receiver's Complaint and his declaration submitted in support herewith.

23 **III. A FORMAL COURT HEARING IS NOT REQUIRED**

24       A formal court hearing is not required for entry of the requested default  
 25 judgment and this Court has wide latitude to forego such a hearing where the Court  
 26 is already familiar with the issues and ample evidence exists in the record to  
 27 substantiate the calculation of damages. *See* Fed. Rules Civ. Proc. Rule 55(b)(2);  
 28 *see also Davis v. Fendler*, 650 F.2d 1154, 1161 (9th Cir. 1981) (explaining that a

1 default judgment for money may be entered without hearing if the amount claimed  
2 is a liquidated sum or capable of mathematical calculation).

3 Here, the Court should forego a formal hearing on this Motion because the  
4 amount of damages, *i.e.* the Profit Amount, is capable of calculation as set forth in  
5 the schedule of payments submitted with the Hoffman Decl., and because this Court  
6 is very familiar with the background facts and legal issues, which are the same as  
7 those in numerous other related clawback actions brought by the Receiver and  
8 pending before the Court. Moreover, a hearing would involve considerable  
9 administrative expense and therefore reduce the net recovery from the action for the  
10 benefit of net losers in the NASI Ponzi scheme. Accordingly, the Receiver  
11 respectfully requests the Court exercise its discretion and enter judgment in favor of  
12 the Receiver as against Defaulting Defendants, jointly and severally, in the Profit  
13 Amount totaling \$243,663.50.

14 **IV. CONCLUSION**

15 For the reasons set forth herein, the Receiver respectfully requests that this  
16 Motion be granted and default judgment be entered in favor of the Receiver as  
17 against Defaulting Defendants, jointly and severally, in the Profit Amount totaling  
18 \$243,663.50.

19  
20 Dated: December 11, 2015

ALLEN MATKINS LECK GAMBLE  
MALLORY & NATSIS LLP  
DAVID R. ZARO  
TED FATES  
TIM C. HSU

23 By: /s/ Tim C. Hsu

24 TIM C. HSU  
25 Attorneys for Receiver  
26 WILLIAM J. HOFFMAN

27  
28

LAW OFFICES  
Allen Matkins Leck Gamble  
Mallory & Natsis LLP